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11 *Attorneys for Defendants Tesla, Inc., Elon Musk,*

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12 *Antonio J. Gracias, James Murdoch, Kimbal Musk,*

And Linda Johnson Rice

13 UNITED STATES DISTRICT COURT

14 NORTHERN DISTRICT OF CALIFORNIA

15 SAN FRANCISCO DIVISION

16
17
18 IN RE TESLA, INC. SECURITIES
LITIGATION

Case No. 3:18-cv-04865-EMC

19 **DECLARATION OF NATHANIEL**
20 **SMITH IN SUPPORT OF**
21 **DEFENDANTS' ADMINISTRATIVE**
22 **MOTION TO SEAL AMENDED**
23 **EXHIBIT 182**
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1 **I, Nathaniel Smith, declare as follows:**

2 1. I am a member of the bar of the District of Columbia and serve as Managing Counsel
3 for Defendant Tesla, Inc. I have been employed with Tesla since April 2021, and in the course of
4 my employment have become familiar with Tesla's treatment of its proprietary business
5 information, such as that described in this declaration. I have personal knowledge of the matters
6 described below and I am competent to testify thereto.

7 2. I make this declaration pursuant to the Northern District of California Civil Local
8 Rule 795(c), in support of Defendants' Administrative Motion To Seal Amended Exhibit 182
9 ("Motion to Seal Am. Ex. 182").

10 3. On January 11, 2022, Plaintiff Glen Littleton ("Lead Plaintiff"), filed a Partial
11 Motion for Summary Judgment ("MSJ") (ECF No. 352). On February 1, 2022, Defendants filed an
12 Opposition to the MSJ, (ECF No. 365), which contains certain confidential information and relies
13 on certain confidential exhibits and deposition testimony. Accordingly, Defendants also submitted
14 an Administrative Motion to Seal (ECF No. 364), requesting that the Court seal the confidential
15 excerpts in the Opposition, and exhibits and deposition testimony relied on.

16 4. Defendants now bring the Motion to Seal Am. Ex. 182 to correct one of the
17 confidential exhibits filed in support of the Opposition.

18 5. In particular, Defendants are refileing an amended Exhibit 182 in condensed form,
19 providing only excerpts of the specific pages cited in the Opposition.

20 6. The amended Exhibit 182 had been designated "Confidential" under the May 20,
21 2020, Protective Order (ECF No. 255) entered in this case, and contains text messages of third party
22 advisors with Tesla executives, and includes non-public, private business communications regarding
23 reactions to, advice on, planning for, and funding of the Elon Musk's August 7, 2018 bid to take
24 Tesla private. The personal contact information of numerous private individuals is contained
25 throughout this condensed exhibit.

26 7. The revelation of the contents of amended Exhibit 182 will cause harm to Tesla by
27 revealing financial, planning, personal, and commercial information that could be misconstrued for
28 improper purposes. Such a release of material, in a piecemeal way, risks that the information will

1 be discussed and spread without the proper context and undermine Tesla's ability to receive a fair
2 trial. This risk of misinformation spreading is heightened because Tesla is one of the most followed
3 companies globally and its CEO, Elon Musk, is one of the most followed individuals in the world.
4 In Tesla's view, sealing the materials for a brief period of time—until trial—balances the public's
5 right to access with Tesla's ability to preserve the sensitive and confidential nature of its
6 information.

7 I declare under penalty of perjury under the laws of the State of California that the foregoing
8 is true and correct and that this document was executed in Washington, D.C.

9 DATED: February 8, 2022
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11
12 By /s/ Nathaniel Smith
Nathaniel Smith

13 ****

14 I, Kyle K. Batter, am the ECF user whose ID and password are being used to file the above
15 declaration. In compliance with Local Rule 5-1(h)(3), I hereby attest that Nathaniel Smith has
16 concurred in the filing of the above declaration.

17 DATED: February 8, 2022

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

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20 By /S/ Kyle Batter
21 Kyle Batter
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